

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DORMAN ANGEL, et al.	:	CASE NO. C-1-01-467
	:	
Plaintiffs	:	JUDGE BECKWITH
	:	MAGISTRATE JUDGE SHERMAN
vs.	:	
	:	
UNITED PAPERWORKERS	:	
INTERNATIONAL UNION (PACE)	:	
LOCAL 1967, et al.	:	
	:	
Defendants	:	

Rule 26(f) Report of the Parties

1. Pursuant to Fed. R. Civ. P. 26(f), a meeting was held on October 23, 2003, and was attended by:

<u>Mark J. Byrne</u>	Counsel for <u>all Plaintiffs</u>
<u>Robert I. Doggett</u>	Counsel for Defendant <u>PACE Local 5-1967</u>
<u>Vincent J. Miraglia</u>	Counsel for Defendant <u>International Paper Co.</u>
<u>James B. Robinson</u>	Counsel for Defendant <u>PACE International Union</u>
<u>Laine S. Posel and Stanley F. Lechner</u>	Counsel for Defendant <u>Smart Papers, LLC</u>

2. The parties:
- ☐ have exchanged the discovery disclosures required by Rule 26(a)(1);
 - ☒ will exchange such disclosures by November 26, 2003;
 - ☐ are exempt from disclosure under Rule 26(a)(1)(E); and/or
 - ☐ have agreed not to make initial disclosures.
3. The parties:
- ☐ unanimously consent to the jurisdiction of, and entry of judgment by, the United States Magistrate Judge pursuant to 28 U.S.C. 636(c); and/or
 - ☒ do not unanimously consent to the jurisdiction of and entry of judgment by the United States Magistrate Judge pursuant to 28 U.S.C. 636(c).
4. Recommended cut-off date for filing any motion to amend the pleadings and/or to add

additional parties: Plaintiffs request that January 3, 2004 be identified as the appropriate date. The Defendant PACE Local contends that the time has passed to amend pleadings or add parties. Defendants Smart Papers and International Paper (IP) contend that the time to amend the pleadings has passed. This case was filed on July 18, 2001 and was amended on July 23, 2001 and January 19, 2002, and Plaintiffs had ample time to amend their complaint since Judge Beckwith's amended order dated March 26, 2003.

5. Is the case appropriate for mediation after a limited discovery period? Plaintiff believes that such action would be appropriate. Counsel for Defendants Smart Papers and International Paper believe that mediation may be appropriate after statistical information is provided to Plaintiffs on November 26, 2003. Counsel for PACE Local Union and the International Union do not believe mediation is appropriate.

Will the parties request the services of a court mediator? Maybe

Has a settlement demand been made? No

Date by which a settlement demand can be made? Plaintiff can make a demand by January 3, 2004.

Date by which a response can be made to settlement demand? February 1, 2004

6. Recommended Discovery Plan:

- a. Describe the subjects on which discovery is to be sought and the nature and extent of discovery that each party needs to: (1) make a settlement evaluation, (2) prepare for case dispositive motions, and (3) prepare for trial:

The parties believe discovery should occur on all issues raised by the pleadings and limited by the Court's decision on the motion to dismiss. Damage issues will also be addressed in discovery. Defendants IP and Smart Papers believe that in light of the Court's decision, which dismissed substantial portions of Plaintiff's complaint against IP and Smart Papers, the remaining discovery against IP and Smart Papers will consist of statistical information as set forth on pages 34-35 of the Court's amended order of March 26, 2003. This statistical information will be produced to Plaintiffs on November 26, 2003. Defendants IP and Smart Papers believe the information will lead to the resolution of all remaining claims against them, and that no further discovery against IP or Smart Papers will be necessary

or

appropriate.

- b. What changes should be made, if any, in the limitations on discovery imposed under the Fed. R. Civ. P. or the S.D. Ohio Civ. Rules, including the limitations to twenty-five (25) interrogatories, forty (40) requests for admissions, and the limitation of ten (10) depositions, each lasting no more than one seven-hour day?

The parties believe that each party will be entitled to serve the other parties with the limitations already imposed under the Federal Rules of Civil Procedure and the Local Rules.

- c. Additional recommended limitations on expansions of discovery:
Defendants IP and Smart Papers incorporate throughout the remainder of this Report their comments set forth in paragraph 6(a) above.
 - d. Describe the areas for which expert testimony is expected and indicate whether each expert will be specifically retained within the meaning of Fed. R. Civ. P. 26(a)(f):
Plaintiffs believe expert testimony may be required relating to a statistical analysis on their age claims and as to economic damages. The Defendants will require experts in rebuttal to the Plaintiffs' experts and the International Union may also call an expert witness relating to collective bargaining.
 - e. Recommended date for identifying primary experts: 02/01/04
 - f. Recommended date for producing primary expert reports: 03/02/04
 - g. Recommended date for identifying rebuttal experts: 04/01/04
 - h. Recommended date for producing rebuttal expert reports: 05/01/04
 - I. Recommended discovery cut-off date: Plaintiffs believe 8/1/04 would be the appropriate date for discovery given the fact that there are over 90 separate Plaintiffs and numerous witnesses for the Defendant who must be deposed. Defendants request the Court to set a discovery deadline for June 1, 2004. Therefore, the Court will need to set this date.
- 7. Recommended dispositive motion deadline: 30 days after the discovery cutoff date is set by the Court.
 - 8. Recommended date for final pretrial conference: 120 days after the dispositive motion deadline is set by the Court.
(at least four (4) months after dispositive motion deadline)
 - 9. Recommended date for trial:
(at least one (1) month after final pretrial conference) 30 days after the pretrial.
 - 10. Other matters for the attention of the Court:
The parties request that the Court set a witness identification exchange date 30 days prior

to the discovery cutoff. In addition, the parties request the Court set a Rule 26(a)(1)
compliance date. For Plaintiffs, that date would be 3/1/04, and for the Defendants the
date would be 5/1/04.

/s/ Mark J. Byrne

Mark J. Byrne - #0029243
Attorneys for Plaintiff

/s/ Robert L. Doggett

Robert I. Doggett - #0016849
Attorney for Defendant
PACE Local 5-1967

/s/ Vincent J. Miraglia

Vincent J. Miraglia
Attorney for Defendant
International Paper Co.

/s/ James B. Robinson

James B. Robinson - #0023483
Attorney for Defendant
PACE International Union

/s/ Laine S. Posel

Laine S. Posel
Attorney for Defendant
Smart Papers, LLC